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May 17, 2010

Chambers Hon. J. Bianco
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, NY 11722

Re: Civ Action No. CV 09 0260; F BIFULCO vs. MORTGAGE ZONE, INC.
A BREEKER, ET.AL.

Dear Honorable Sir:

Please take notice that this office represents the interests of MORTGAGE ZONE, INC, and ALAN BREEKER. We felt compelled to submit a response to Plaintiff's attorney's letter dated May 14, 2010:

We must first mention that it is with regret that Mr. Breecker has been unable to provide the additional labor/human resource information - sought by the Plaintiffs . He has exhaustively searched his limited files on the matter and could only provide the employee roster proffered in April, 2010.

We take offense, however, to the continued mis-characterizations by Attorney Langeland - of Mr. Breecker's alleged defaults and "...disturbing pattern of dodging the Court...". His letter follows a long line of dispersions cast upon my clients alleging willfulness. To call Mr. Breecker in default, is simply inappropriate under the circumstances. It cannot be overlooked that Mr. Breecker is the only defendant who has appeared and interposed a defense to this action.

To reiterate, Mr. Breecker did present a list of MORTGAGE ZONE employees who may, in fact, fit the plaintiff's class agenda. Unfortunately, that is all that he information he possesses - relative to this discovery. Mr. Breecker advised the Court that his ex-partner, Mr. Evans - would probably be the person best suited to provide any

supplemental information¹. It should be further noted that Mr. Evans has been unreachable - for well over a year now².

So where does all this leave us? My client has and will always be ready and willing to respond to this Court. Mr. Breecker has appeared in this action, duly submitted an *answer* and argues that MORTGAGE ZONE did not violate any labor laws. He has the right - and should continue to have that right - to set forth such defenses. As the only appearing defendant, is it equitable to even contemplate punishing such a party for no due fault of his own? We think not and submit that Plaintiff's attorney is the one who has dithered by not pursuing the other recognized options for his discovery needs.

Thank you for your time and consideration.

Yours truly,

Paul J. Solda

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cc. E. Langeland, Esq.

¹ This office notably advised same to Attorney Langeland last year and suggested they contact Mr. Evans' attorney - M. Klotsche.

² I discussed this with the Court during argument per the certification motion (September, 2009).